

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6244 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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M/S A A GROUP & ORS.

Versus

DIRECTOR OF AGRICULTURAL MARKETING & RURAL FINANCE  
AND OTHERS

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Appearance:

MR DM THAKKAR for Petitioners  
MR AD MITHANI for Respondent No. 2  
MR HL JANI for Respondent No. 1, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/05/97

C.A.V. JUDGEMENT

1. Heard the learned counsel for the parties. The petitioners, in all six in number, filed this Special Civil Application before this Court and prayer has been made for quashing of the notification dated 1-11-1982 of the respondent No.1, annexure 'F'. The further prayer has been made for declaration that the provisions of the

Gujarat Agricultural Produce Markets Act, 1963, and the Rules framed thereunder do not apply to the petitioners who are retailers. The last prayer has been made to restrain the respondents from prosecuting the petitioners for the alleged breach of the provisions of the Act and the Rules and further direction to withdraw all criminal proceedings instituted against the petitioners for offences under Section 36 read with Section 6 of the Gujarat Agricultural Produce Markets Act, 1963.

2. Annexure 'F' on the record of this petition is not the notification, but it is a copy of complaint filed by the respondent No.2 in the court for criminal prosecution of one of the petitioners. In all six criminal cases have been registered against the petitioners separately, out of which the details of five cases have been given. The complaints were filed against the petitioners for their prosecution, before the Court of Judicial Magistrate, First Class, Surendranagar. The number of one complaint was not given. The petitioners were sought to be prosecuted for the noncompliance of the provisions of Section 6 of the Gujarat Agricultural Produce Markets Act, 1963, (hereinafter referred to as the Act, 1963). The petitioners were not holding the licence under the provisions of the Act, 1963 and they were carrying on their business of agricultural produce in the market yard.

3. The counsel for the petitioners submitted that all the petitioners have now obtained the licence on 20th December, 1992, under the provisions of the Act, 1963, and as such, the grievances made in this Special Civil application to the extent it relates to prayers (A) and (B), no more survives. The only grievance remains of the prosecution which has been lodged against the petitioners. However, the prosecution lodged against the petitioners at that time may not be uncalled for. Section 36 of the Act, 1963, is clear and if any person contravenes any of the provisions of the Act, 1963, or the Rules framed thereunder then certainly the respondent No.2 was within its competence to take the criminal prosecution. However, the question is of the continuation of the criminal complaints filed against the petitioners after 13 years of the filing thereof and in the presence of the fact that the petitioners have taken the licence. It is not in dispute that the penalty for the first offence under Section 36 of the Act, 1963, is only of maximum fine of Rs.500/-. It is not the case of the respondents that the offence complained of was not the first offence of the petitioners.

4. This Court has granted the interim relief in terms of para No.20 (D) on 13th December, 1984. Para No.20 (D) reads as under:

YOUR LORDSHIPS be pleased to stay further proceedings of criminal cases No.1614/84, 1615/84, 1593/84, 1594/84, 1596/84 and /84 instituted by the respondents against the petitioners, pending in the Court of learned J.M.F.C. Surendranagar, pending admission, hearing and final disposal of this petition.

So for all these years, the further proceedings of the criminal cases given therein remain stayed. The Criminal Courts are already heavily burdened with the pendency of the cases of the serious offences. For all these years i.e. about 13 years, those proceedings in the criminal cases remain stayed and whatever technical breach was made by the petitioners of the provisions of the Act, 1963, is no more there as in 1992 they have taken the licences. The maximum penalty under the Act, 1963 for the offence of the nature alleged to have been committed by the petitioner is of Rs.500/-. So ultimately if the criminal court finds that the petitioners committed an offence under Section 36 of the Act, 1963, then at the most they can be fined for the amount varying from Re.1/- to maximum Rs.500/-. After 1992 there is no contravention and the petitioners have taken the licence.

5. In view of these facts, I do not consider it to be a fit case where for such a petty offence, after this long gap of 13 years, the court should be directed to consume its valuable time instead of using that time in deciding the cases of more serious offences. It is a fit case where in the facts stated above, the prayer made for quashing of the prosecution of the petitioners pending in the court of J.M.F.C. Surendranagar, deserves to be accepted.

6. In the result, this Special Civil Application succeeds in part. The criminal cases No.1614/84, 1615/84, 1593/84, 1594/84, 1596/84 and /84, pending in the court of J.M.F.C. Surendranagar is directed to be withdrawn. Rule is made absolute in the aforesaid terms with no order as to costs.

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